

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

MOBILEMEDIA IDEAS LLC,	)	
	)	
Plaintiff,	)	Civil Action No. 3:11-cv-02353-N
	)	
v.	)	JURY TRIAL DEMANDED
	)	
RESEARCH IN MOTION LIMITED and	)	
RESEARCH IN MOTION	)	
CORPORATION,	)	
	)	
Defendants.	)	

**APPENDIX TO MMI’S RESPONSE TO DEFENDANTS’  
MOTION FOR A STATUS CONFERENCE**

Plaintiff MobileMedia Ideas LLC (“MMI”) files this Appendix to MMI’s Response to Defendants’ Motion for a Status Conference.

April 24, 2012

Respectfully submitted,

/s/ Mark Turk

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CERTIFICATE OF SERVICE

The undersigned certifies that on April 24, 2012, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule Cv-5(a)(3). Any other counsel of record will be served via first class mail and/or facsimile.

/s/ Mark Turk  
Mark E. Turk

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF DELAWARE

- - -

MOBILEMEDIA IDEALS, LLC,, : CIVIL ACTION  
Plaintiff, :  
vs. :  
APPLE INC., :  
Defendant. : NO. 10-258 SLR-MPT

- - -

Wilmington, Delaware  
Tuesday, April 17, 2012  
10:00 o'clock, a.m.

- - -

BEFORE: HONORABLE SUE L. ROBINSON, U.S.D.C.J.

- - -

APPEARANCES:

MORRIS, NICHOLS, ARSHT & TUNNELL LLP  
BY: JACK B. BLUMENFELD, ESQ.

-and-

Valerie J. Gunning  
Official Court Reporter

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14  
15 O'MELVENY & MYERS LLP  
16 BY: LUANN L. SIMMONS, ESQ.,  
17 MICHAEL SAPOZNIKOW, ESQ. and  
18 ERIC NAMROW, ESQ.  
19 (San Francisco, California)

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P R O C E E D I N G S

(Proceedings commenced in the courtroom,  
beginning at 10:00 a.m.)

THE COURT: Good morning, everyone.

(Counsel respond, "Good morning, your Honor.")

THE COURT: Why don't we have some introductions  
before we get into the substance.

Mr. Blumenfeld, we'll start with you.

MR. BLUMENFELD: Thank you, your Honor.

Jack Blumenfeld from Morris Nichols for the  
plaintiff along with Steve Bauer and Justin Daniels from the  
Proskauer firm.

With the Court's permission, Mr. Bauer will be  
speaking for the plaintiff today. Before he does that, we  
did spend some time talking between the sides leading up to  
this morning and we have resolved a lot of what we thought  
were the issues, as frequently happens, but Mr. Bauer can  
present that.

THE COURT: All right. Fine. Thank you.  
Always a good thing.

Mr. Herrmann?

MR. HERRMANN: Good morning, your Honor.

1 THE COURT: Good morning.

2 MR. HERRMANN: Your Honor, I'd like to introduce  
3 to the Court Luann Simmons from the O'Melveny & Myers firm,  
4 and Eric Namrow, and Mike Sapoznikow. I did not that wrong,  
5 Michael. I apologize.

6 THE COURT: All right.

7 MR. HERRMANN: All from O'Melveny.

8 THE COURT: All right. Thank you very much.

9 Will I need my calendar, because it takes --

10 MR. BAUER: I don't know that you'll need it.  
11 We have some dates that we've proposed, but nothing that  
12 affects your calendar.

13 THE COURT: All right.

14 MR. BAUER: Only if you want to see the dates  
15 that I propose.

16 Your Honor, we're new to the case and so it took  
17 us a little while to get our arms around things and we've  
18 done that.

19 The case started as 16 patents. We dropped two  
20 already. And the benefit of a hearing is it focuses counsel  
21 on both sides to get to the heart of the issues. So we  
22 chatted and we have a proposal which I'm going to lay out,  
23 and if I misstate it, we just did it this morning, so it's  
24 from my notes, Ms. Simmons will correct me.

25 But we think the issues for today were how were

1 we going to deal with a case that still had 14 patents and  
2 all the claim constructions and the summary judgments and  
3 all of that stuff that was going to be coming up in the next  
4 couple months. So we both came up with a proposal, which we  
5 think is a little novel, but we'll work to simplify the  
6 case.

7 What we're going to do is withdraw four patents  
8 from this part of the case, with your Honor's permission.  
9 We're going to bifurcate it out to post-trial. And then,  
10 depending on what happens at trial, whether we'll ever see  
11 them again or not, we'll worry about that. So we're going  
12 to narrow it down to ten patents.

13 We're going to identify those patents on  
14 April 25th. At the same time, we're going to restrict the  
15 number of claims to 30 total. So it will be three claims on  
16 average per patent, but it does not need to be three per  
17 patent.

18 So we will narrow the patent case to ten patents  
19 and 30 claims maximum, no more than three per patent. After  
20 that -- so we'll do that on April 25th.

21 On April 30th, both parties are going to  
22 identify 30 terms that they believe need to be construed,  
23 and there will be overlap, so there won't be -- but we're  
24 only asking to present to the Court 30 terms total.

25 All right. We agreed to exchange 30 terms?

1 MS. SIMMONS: Right.

2 MR. BAUER: It would be 30 terms total for the  
3 Court. So we're going to, again, narrow the patent case.  
4 So it's down to ten patents, no more than 30 claims, and no  
5 more than 30 terms, total. So on average, three terms per  
6 patent, but not necessarily three per patent, but on  
7 average.

8 And the way we're going to do that process is we  
9 will exchange the 30 terms we think each of us believes  
10 there may be overlap, and if there's overlap, then we'll sit  
11 down and meet and confer, and we've come up with sort of a  
12 baseball arbitration rule. We'll give two, they'll give  
13 two. But we'll get to 30 claim terms total for the Court to  
14 construe, plus separately means-plus-function. Those aren't  
15 really construction as much as understanding that there will  
16 be some debate as to what the structure is for the  
17 means-plus-function.

18 But the 30 we're talking about is where there's  
19 a real dispute as to does it mean all or some, you know,  
20 that sort of thing. So we think we've narrowed it down  
21 significantly.

22 At the same time that we identify the 30 terms  
23 on April 30th, they're going to narrow their prior art,  
24 which right now they've got about a hundred prior art  
25 references. They'll narrow it to 30 prior art references,



1 again, average of three per patent.

2 So that was the rule of thumb that we all worked  
3 for, but without limiting us to three per patent, so they'll  
4 identify no more than 30 references on average.

5 And then we'll meet on May 1st and try to narrow  
6 things down. There's an opportunity, which is not  
7 necessarily for your Honor, but a buyer's remorse. We're  
8 identifying ten. We have two days to swap one patent out  
9 for the other just if somebody has a concern on the client's  
10 side. But that's the most.

11 But it will be -- at the end of the day, we're  
12 going to present no more than ten patents, no more than 30  
13 claims, no more than 30 claim terms for a construction, no  
14 more than 30 prior art references for the ten patents. And  
15 that will be the process to narrow it.

16 The one thing we'd like to ask the Court,  
17 because it is ten patents, we'd like -- we both would like  
18 to ask the Court to double the page limits for claim  
19 construction and summary judgment, which would be the  
20 opening claim construction brief would be 60 pages, and the  
21 opening summary judgment brief would be 80 pages, given the  
22 number of patents.

23 And the one other thing was they have a motion  
24 to strike that's pending, motion to strike some claim terms  
25 that they will defer the reply brief on that until after

1 this whole process runs its course, because we don't know  
2 what claim terms will still be in and whether they still  
3 want to press that issue.

4 And if I said no more than three claims per  
5 patent, I meant to say no more than three claims -- did I  
6 misspeak somehow? I don't understand. I think I -- Ms.  
7 SIMMONS will correct me if I misspoke, but I think we have  
8 an agreement on what we were contemplating here.

9 THE COURT: All right. I take it the motion to  
10 dismiss for lack of standing is still out there?

11 MS. SIMMONS: Yes, your Honor. That is still  
12 pending.

13 THE COURT: All right. All right. Ms. SIMMONS?

14 Thank you very much.

15 MR. BAUER: Thank you.

16 MS. SIMMONS: Good morning, your Honor.

17 THE COURT: Good morning.

18 MS. SIMMONS: I think we did not have any  
19 corrections to the proposal. That was our understanding as  
20 well. The only clarification would be for the request to  
21 double the page limits on the briefing. That would apply to  
22 all of the briefs, not just the opening briefs, which I  
23 believe is what you intended to say, counsel, but wanted to  
24 make sure that was clear. Otherwise, I believe that counsel  
25 properly stated our agreement.

1 THE COURT: All right.

2 MR. BAUER: They explained what that note was.

3 I may have said no more than three per patent. What I was  
4 talking about was an average of three per patent. I think I  
5 explained that.

6 THE COURT: All right.

7 MS. SIMMONS: That's our understanding as well.

8 Thank you, your Honor.

9 THE COURT: All right. Thank you.

10 I appreciate the efforts you made to come to  
11 this agreement, and given that, I'm not going to whine about  
12 doubling the pages. I will quietly, when we get all that  
13 paper, but I understand that you think -- even though you've  
14 narrowed everything, I understand you still feel as though  
15 you need more.

16 So it would be helpful in that regard if you --  
17 I don't know whether you plan to put any of this in writing,  
18 or whether the transcript is going to be what -- is going to  
19 suffice. I just want to make sure that I'm reminded because  
20 of all the papers that come in, that when this comes in  
21 doubled, that I will refresh my recollection easily.

22 MR. HERRMANN: To refresh your recollection  
23 easily, your Honor, we'll be pleased to prepare a  
24 stipulation and order.

25 THE COURT: I would appreciate that. It's

1 always good so that everyone in my office has the same  
2 docket sheet to make sure that I'm doing my job right and  
3 you all are doing your job right.

4 I understand that the motion to strike is  
5 essentially deferred at this point and I shouldn't address  
6 any energy to that, but that the motion to dismiss for lack  
7 of standing is -- I think it's fully briefed at this point.  
8 So we will try to address that so that we can move forward,  
9 if that's appropriate.

10 Are there any other issues, then, that we need  
11 to address from plaintiff's perspective?

12 MR. BAUER: No, your Honor. I think we got  
13 that, what the issues for today, resolved.

14 THE COURT: Great. Thank you so much.

15 From defendant's perspective?

16 MS. SIMMONS: Agreed. That you, your Honor.

17 THE COURT: All right. Well, you seem like a  
18 model patent case in this regard, so feel free to share that  
19 degree of cooperation with your colleagues and the bar.  
20 Appreciate it. Thank you very much.

21 (Counsel respond, "Thank you, your Honor.")

22 (Hearing concluded at 10:11 a.m.)

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